

# **EXHIBIT B**

CAUSE NO. \_\_\_\_\_

**VIRGINIA BRECEDA GARCIA**  
**Plaintiff**

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§

**IN THE DISTRICT COURT**

**V.**

\_\_\_\_ **JUDICIAL DISTRICT**

**FIESTA MART LLC,**  
**Defendant**

**HARRIS COUNTY, TEXAS**

**PLAINTIFF'S ORIGINAL PETITION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES** Virginia Breceda Garcia, hereinafter called Plaintiff, complaining of  
Fiesta Mart LLC, hereinafter called Defendant, and for cause of action show unto the Court the  
following:

**I.**  
**LEVEL**

Discovery is intended to be conducted under Level 2 of Texas Rules of Civil Procedure 190.

**II.**  
**PARTIES**

Plaintiff, Virginia Breceda Garcia, is an individual who resides in Harris County.

Defendant, Fiesta Mart LLC is a Corporation doing business in Harris County, Texas.  
Defendant may be served with process by serving its registered agent CT Corporation System at  
1999 Bryan St. STE 900, Dallas, Texas 75201.

**III.**  
**VENUE**

The subject matter in controversy is within the jurisdictional limits of this court.

Plaintiffs seek:

- a. only monetary relief of over \$250,000 and not less than \$1,000,000.00, or less including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

Venue in Harris County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because the cause of action occurred in Harris County, Texas.

#### **IV.** **FACTS**

This suit is brought under and by virtue of the laws of the State of Texas to recover those damages which Plaintiff is justly entitled to receive as compensation for injuries she sustained in an incident that happened on or about November 16, 2020. On that date, Plaintiff, an invitee, visited a Fiesta location in Houston, Texas. Plaintiff was on her way to the cashier to pay when she slipped and fell on a piece of glass that came from a broken Fanta bottle. The premises owned by Defendant was negligently maintained. On the date of the incident, the premises were under the custody and control of the Defendant that resulted in severe injuries. The Defendant failed to warn Plaintiff of the dangerous condition and failed to make the dangerous condition safe for Plaintiff prior to her fall.

#### **V.** **NEGLIGENCE**

The occurrence made the basis of this suit and the resulting injuries and damages were proximately caused by the negligence and/or negligence per se of the Defendant, for a variety of acts and omissions, including but not limited to one or more of the following:

1. In failing to properly maintain said premises in a reasonable manner;
2. In failing to properly maintain said premises in a safe manner;
3. In failing to exercise caution;

4. In failing to provide warning; and,
5. In maintaining said premises in a reckless and careless manner.

Each and all of the above acts and/or omissions constituted negligence and each and all were the proximate cause of the following made the basis of this suit and the injuries and damages suffered by the Plaintiff herein.

**VI.**  
**PREMISES LIABILITY-INVITEES**

The occurrence made the basis of this suit and the resulting injuries and damages were caused by the Defendant's failure to properly maintain said premises in a safe manner. Plaintiff would show that:

1. The Plaintiff was an invitee;
2. The Defendant was a possessor of that premises;
3. A condition on the premises posed an unreasonable risk of harm;
4. The Defendant knew or reasonably should have known of the danger;
5. The Defendant breached its duty of ordinary care by both:
  - a. Failing to adequately warn the Plaintiff of the condition, and
  - b. Failing to make the condition reasonably safe; and
6. The Defendant's breach proximately caused the Plaintiff's injuries.

**VII.**  
**DAMAGES**

As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff was caused to suffer pain and suffering and to incur the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff for the necessary care and treatment of the injuries

resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in Harris County, Texas;

- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Physical pain and suffering in the future;
- E. Physical impairment in the past;
- F. Physical impairment which, in all reasonable probability, will be suffered in the future;
- G. Loss of earnings in the past;
- H. Loss of earning capacity which will, in all probability, be incurred in the future;
- I. Disfigurement in the past;
- J. Disfigurement in the future;
- K. Mental anguish in the past; and
- L. Mental anguish in the future.

**VIII.**  
**JURY TRIAL**

Plaintiff respectfully requests a trial by jury.

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant, for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

**BASU LAW FIRM, PLLC**

/S/Annie Basu

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**ATTORNEY FOR PLAINTIFF**

**REQUESTS FOR DISCLOSURE**

Pursuant to the provisions of Tex. R. Civ. P. Rule 190.3, Plaintiff serves upon Defendant, Texas Rule of Civil Procedure 194 Request for Disclosure. You are hereby requested to disclose the information or material described in Rule 194.2(a); 194.2(b); 194.2(c); 194.2(e); 194.2(f) (1), 194.2(f)(2), 194.2(f)(3), 194.2(f)(4)(A), and 194.2(f)(4)(B); 194.2(g); 194.2(h); 194.2(i); 194.2(j), 194.2(k) and 194.2 (l) within fifty days of your receipt of this document, by sending your responses to Annie Basu, P. O. Box 550496, Houston, Texas 77255.

/s/Annie Basu

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ANNIE BASU

CAUSE NO. 202079695

VIRGINIA BRECEDA GARCIA	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
FIESTA MART LLC	§	
Defendants.	§	
	§	
	§	295 <sup>th</sup> JUDICIAL DISTRICT

**DEFENDANT FIESTA MART LLC'S ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant FIESTA MART LLC, files this Original Answer to Plaintiff's Original Petition ("Petition"), and in support thereof, would respectfully show the Court the following:

**I. General Denial**

1. Under Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every allegation made against Defendant in Plaintiff's Petition.

**II. Jury Demand**

2. Defendant hereby exercises its rights to demand a trial by jury under Rule 216 of the Texas Rules of Civil Procedure on all issues triable by a jury.

**III. Request for Disclosure**

3. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff is requested to disclose, within thirty days of service of this request, the information or material described in Rule 194.2(a)-(l) and the documents described in Rule 194.4 of the Texas Rules of Civil Procedure.

**IV. Prayer**

FOR THESE REASONS, Defendant FIESTA MART LLC, respectfully pray that the Court enter a judgment that:



1. Dismisses all claims against Defendant FIESTA MART LLC, and order that Plaintiff takes nothing by reason of Plaintiff's allegations.
2. Orders that Defendant recovers all costs incurred in defense of Plaintiff's claims, and that Defendant's judgment against Plaintiff include the following:
  - a. Costs of suit; and
  - b. Such other and further relief, general and special, at law or in equity, to which Defendant may be justly entitled.

Respectfully submitted,  
MEHAFFYWEBER, P.C.

By:/s/Maryalyce W. Cox  
Maryalyce W. Cox  
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ATTORNEYS FOR DEFENDANT  
FIESTA MART LLC

**CERTIFICATE OF SERVICE**

This will certify that a copy of the foregoing document was furnished to counsel for Plaintiff on January 11, 2021, pursuant to the Texas Rules of Civil Procedure.

Maryalyce W. Cox  
Maryalyce W. Cox